

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, TYLER MAGILL, APRIL
MUNIZ, HANNAH PEARCE, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, and JOHN DOE,

Plaintiffs,

V.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VANGUARD
AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
"AZZMADOR" RAY, NATHAN DAMIGO,
ELLIOT KLINE a/k/a/ ELI MOSLEY,
IDENTITY EVROPA, MATTHEW
HEIMBACH, MATTHEW PARROTT a/k/a
DAVID MATTHEW PARROTT,
TRADITIONALIST WORKER PARTY,
MICHAEL HILL, MICHAEL TUBBS,
LEAGUE OF THE SOUTH, JEFF SCHOEP,
NATIONAL SOCIALIST MOVEMENT,
NATIONALIST FRONT, AUGUSTUS SOL
INVICTUS, FRATERNAL ORDER OF THE
ALT-KNIGHTS, MICHAEL "ENOCK"
PEINOVICH, LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN, and EAST COAST
KNIGHTS OF THE KU KLUX KLAN a/k/a
EAST COAST KNIGHTS OF THE TRUE
INVISIBLE EMPIRE,

Defendants.

**Civil Action No. 3:17-cv-
00072-NKM**

**PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT AGAINST
DEFENDANT AUGUSTUS SOL INVICTUS**

Plaintiffs respectfully request that the Court enter default against Defendant Augustus Sol Invictus ("Invictus") pursuant to Federal Rule of Civil Procedure 55(a) on the ground that

Defendant Invictus has failed to plead or otherwise defend within the time prescribed by the Federal Rules of Civil Procedure (“FRCP”).

Plaintiffs effected service on Defendant Invictus on January 19, 2018, through the Secretary of the Commonwealth of Virginia pursuant to Va. Code. § 8.01-329. (ECF 198.)

Plaintiffs exercised due diligence in attempting personally to serve Defendant Invictus, formerly known as Austin Mitchell Gillespie. Plaintiffs retained a private investigator who identified five addresses where Defendant Invictus might be found. Plaintiffs’ process servers repeatedly attempted to serve Defendant Invictus at these addresses on October 20, October 28, November 28, November 29, November 30, December 1, December 2, December 5, December 6, December 7, December 12, and on December 13, 2017. Exhibits 1-3.

Pursuant to FRCP 4(e)(1), service may be made by following state law for serving a summons in the state where the district court is located. In Virginia, service may be effected through the Secretary of the Commonwealth as the statutory agent of the party to be served. Va. Code. § 8.01-329. The party seeking service must file an affidavit stating either (i) that the party to be served is a nonresident or (ii) that, after exercising due diligence, the party seeking service has been unable to locate the person to be served. Va. Code. § 8.01-329(B). The party seeking service must also identify and provide the Secretary of the Commonwealth the “last known post-office address” of the party to be served. Va. Code. § 8.01-329(C)(2).

After exercising due diligence in attempting to locate Defendant Invictus without success, Plaintiffs followed the procedure required to effect service through the Secretary of the Commonwealth under Va. Code. § 8.01-329. Specifically, Plaintiffs filed an affidavit with the Secretary of the Commonwealth indicating that Defendant Invictus is a nonresident. Va. Code. § 8.01-329(B)(i). In accordance with Va. Code. § 8.01-329(C)(2), Plaintiffs determined Defendant

Invictus's "last known post-office address" to be 9823 4th Avenue, Orlando, FL 32824, based on the Statement of Candidacy Form he submitted for the Florida Senate on October 6, 2017. Exhibits 4, 5.

On January 19, 2018, the Secretary of the Commonwealth filed the required Certificate of Compliance with the Court, thereby effecting service as of that date. (ECF 198.) Based on the service date of January 19, 2018, Defendant Invictus was required to respond by February 12, 2018, twenty-one days after service was effected. Va. Code. § 8.01-329(C)(3) ("The time for the person to be served to respond to process sent by the Secretary shall run from the date when the certificate of compliance is filed in the office of the clerk of the court in which the action is pending.").

As of the date of this motion, over four weeks have elapsed since the February 12, 2018 deadline, and Defendant Invictus still has not filed an answer, motion, or otherwise appeared to defend against this action as required by FRCP 12(a)(1)(A). Accordingly, Plaintiffs respectfully ask the Court to grant this Motion to Enter Default against Defendant Invictus for failure to plead or otherwise defend under FRCP 55(a).

Dated: March 14, 2018

Respectfully submitted,

s/ Robert T. Cahill

Robert T. Cahill (VSB 38562)
COOLEY LLP
11951 Freedom Drive, 14th Floor
Reston, VA 20190-5656
Telephone: (703) 456-8000
Fax: (703) 456-8100
rcahill@cooley.com

Of Counsel:

Roberta A. Kaplan (*pro hac vice*)
Julie E. Fink (*pro hac vice*)
Christopher B. Greene (*pro hac vice*)
Seguin L. Strohmeier (*pro hac vice*)
Joshua A. Matz (*pro hac vice*)
KAPLAN & COMPANY, LLP
350 Fifth Avenue, Suite 7110
New York, NY 10118
Telephone: (212) 763-0883
rkaplan@kaplanandcompany.com
jfink@kaplanandcompany.com
cgreene@kaplanandcompany.com
sstrohmeier@kaplanandcompany.com
jmatz@kaplanandcompany.com

Karen L. Dunn (*pro hac vice*)
William A. Isaacson (*pro hac vice*)
BOIES SCHILLER FLEXNER LLP
1401 New York Ave, NW
Washington, DC 20005
Telephone: (202) 237-2727
Fax: (202) 237-6131
kdunn@bsflp.com
wisaacson@bsflp.com

Philip M. Bowman (*pro hac vice*)
Yotam Barkai (*pro hac vice*)
Joshua J. Libling (*pro hac vice*)
BOIES SCHILLER FLEXNER LLP
575 Lexington Ave.
New York, NY 10022
Telephone: (212) 446-2300
Fax: (212) 446-2350
pbowman@bsflp.com
ybarkai@bsflp.com
jlibling@bsflp.com

Alan Levine (*pro hac vice*)
COOLEY LLP
1114 Avenue of the Americas, 46th Floor
New York, NY 10036
Telephone: (212) 479-6260
Fax: (212) 479-6275
alevine@cooley.com

David E. Mills (*pro hac vice*)
COOLEY LLP
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004
Telephone: (202) 842-7800
Fax: (202) 842-7899
dmills@cooley.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2018, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

Justin Saunders Gravatt
David L. Hauck
David L. Campbell
Duane, Hauck, Davis & Gravatt, P.C.
100 West Franklin Street, Suite 100
Richmond, VA 23220
jgravatt@dhdglaw.com
dhauck@dhdglaw.com
dcampbell@dhdglaw.com

Counsel for Defendant James A. Fields, Jr.

Bryan Jones
106 W. South St., Suite 211
Charlottesville, VA 22902
bryan@bjoneslegal.com

Counsel for Defendants Michael Hill, Michael Tubbs, and League of the South

Elmer Woodard
5661 US Hwy 29
Blairs, VA 24527
isuecrooks@comcast.net

James E. Kolenich
Kolenich Law Office
9435 Waterstone Blvd. #140
Cincinnati, OH 45249
jek318@gmail.com

Counsel for Defendants Jeff Schoep, Nationalist Front, National Socialist Movement, Matthew Parrott, Matthew Heimbach, Robert Ray, Traditionalist Worker Party, Elliot Kline, Jason Kessler, Vanguard America, Nathan Damigo, Identity Europa, Inc. (Identity Evropa), and Christopher Cantwell

Michael Peinovich
a/k/a Michael "Enoch" Peinovich
PO Box 1069
Hopewell Junction, NY 12533
mpeinovich@gmail.com

Pro Se Defendant

I further hereby certify that on March 14, 2018, I also served the following non-ECF participants, via U.S. mail, First Class and postage prepaid, addressed as follows:

Loyal White Knights of the Ku Klux Klan
a/k/a Loyal White Knights Church of
the Invisible Empire, Inc.
c/o Chris and Amanda Barker
P.O. Box 54
Pelham, NC 27311

Richard Spencer
1001-A King Street
Alexandria, VA 22314
-and-
P.O. Box 1676
Whitefish, MT 59937

Moonbase Holdings, LLC
c/o Andrew Anglin
P.O. Box 208
Worthington, OH 43085

Andrew Anglin
P.O. Box 208
Worthington, OH 43085

East Coast Knights of the Ku Klux Klan
a/k/a East Coast Knights of the
True Invisible Empire
26 South Pine St.
Red Lion, PA 17356

Fraternal Order of the Alt-Knights
c/o Kyle Chapman
52 Lycett Circle
Daly City, CA 94015

Augustus Sol Invictus
9823 4th Avenue
Orlando, FL 32824

s/ Robert T. Cahill

Robert T. Cahill (VSB 38562)
COOLEY LLP
11951 Freedom Drive, 14th Floor
Reston, VA 20190-5656
Telephone: (703) 456-8000
Fax: (703) 456-8100
Email: rcahill@cooley.com

Counsel for Plaintiffs